

Fair Political Practices Commission
Memorandum

To: Chairman Randolph and Commissioners Blair, Downey, Huguenin and Remy

From: Joan Giannetta, Regulations Coordinator, Legal Division
John W. Wallace, Assistant General Counsel
Luisa Menchaca, General Counsel

Subject: Biennial Gift Limit Adjustment: Adoption of Amendments to Regulations 18703.4, 18730, 18940.2, 18942.1, and 18943

Date: October 26, 2006

Background:

The gift limit is adjusted biennially by the Commission to reflect changes in the annual average California Consumer Price Index ("CPI"). (Government Code sections 87103(c) and 89503(f).)

The California Department of Finance ("DOF") provides the CPI calendar year averages for all urban consumers. The DOF planning estimate forecast through September 2006 indicates an average for all urban consumers (California) at 211.0.

Gift Limit Calculation (Regulation 18940.2):

The formula used to calculate the adjusted gift limit (found at regulation 18940.2(d)(2)) is as follows: the base dollar amount of \$250 multiplied by the most current CPI (211.0), divided by 135 (the base CPI from 1990), rounded to the nearest ten dollars (\$10).

$$\frac{\$250 \text{ (base dollar amount)} \times 211.0 \text{ (annual CPI through September 2006)}}{135 \text{ (base CPI from 1990)}} = \$390.74 \text{ (\$390 when rounded to the nearest \$10)}$$

Under the above formula, the gift limitation amount for January 1, 2007, through December 31, 2008, equals \$390.74, adjusted to \$390 when rounded to the nearest \$10. Therefore, the proposed amendment for regulation 18940.2 adjusts the gift limit from \$360 to \$390 for the period beginning January 1, 2007.

Amendment to Regulation 18940.2(a). Gift Limit Amount.

“(a) For purposes of Government Code section 89503, the adjusted annual gift limitation amount in effect for the period January 1, 2005, to December 31, 2006, is \$360. January 1, 2007, to December 31, 2008, is \$390.

Other Regulations Affected:

Adoption of amendments to other regulations affected by the gift limit adjustment include regulations 18703.4, 18730, 18942.1, and 18943, which are presented below:

Regulation 18703.4. Economic Interest, Defined: Source of Gifts.

“For purposes of disqualification under Government Code sections 87100 and 87103, a public official has an economic interest in any donor of, or any intermediary or agent for a donor of, a gift or gifts aggregating ~~three hundred sixty dollars (\$360)~~ three hundred ninety dollars (\$390) or more in value provided to, received by, or promised to the public official within 12 months prior to the time when the decision is made.”

Regulation 18730. Provisions of Conflict of Interest Codes.¹

“(8.1) Section 8.1. Prohibition on Receipt of Gifts in Excess of ~~\$360~~ \$390.”

“(A) No member of a state board or commission, and no designated employee of a state or local government agency, shall accept gifts with a total value of more than ~~\$360~~ \$390 in a calendar year from any single source, if the member or employee would be required to report the receipt of income or gifts from that source on his or her statement of economic interests. This section shall not apply to any part-time member of the governing board of any public institution of higher education, unless the member is also an elected official.”

¶...¶

Regulation 18730 also needs amendment at Section 9:

“(E) Any donor of, or any intermediary or agent for a donor of, a gift or gifts aggregating ~~\$360~~ \$390 or more provided to, received by, or promised to the designated employee within 12 months prior to the time when the decision is made.”

¹ This regulation is also proposed to be amended to reflect technical changes. See staff memorandum, “Adoption of Proposed Amendments to Regulations 18312, 18316.5, 18326, 18401, 18521, 18537.1, 18704.5, 18705.1, 18705.5, 18730, and 18746.2: Technical Changes to the Political Reform Act,” dated October 26, 2006.

Regulation 18942.1. Definition of “Informational Material.”

“(b) Scale models, pictorial representations, maps, and other such items, provided that where the item has a fair market value in excess of ~~\$360~~ \$390, the burden shall be on the recipient to demonstrate that the item is informational material.”

Regulation 18943. Return, Donation, or Reimbursement of a Gift.

“(b) Relief from Disqualification by Return, Donation, or Reimbursement. In order to relieve the recipient of an otherwise disqualifying financial interest based upon the receipt or acceptance of a gift valued at ~~\$360~~ \$390 or more pursuant to Government Code section 87100, the return, donation, or reimbursement of the gift pursuant to subdivision (a), above....”

The above noted amendments have been attached to this memorandum.

Staff Recommendation:

Staff recommends adoption of the proposed amendments.

Attachments: Regulation 18703.4

18730

18940.2

18942.1

18943